

Introduced by Senator Scott

February 20, 2003

An act to amend Section 789 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 620, as introduced, Scott. Senior insurance: penalties.

Existing law imposes a special duty of honesty, good faith, and fair dealing on an insurer, broker, agent, and all others engaged in the transaction of insurance with a prospective insured who is 65 years of age or older, except for specified types of insurance transactions. Under existing law, the Insurance Commissioner is authorized to assess an administrative penalty for the violation of this duty and other provisions relating to senior insurance.

This bill would make nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 789 of the Insurance Code is amended
2 to read:

3 789. (a) The commissioner shall have the administrative
4 authority to assess penalties against insurers, brokers, agents, and
5 other entities engaged in the transaction of insurance or *against*
6 any other person or entity for ~~violations of~~ *violating* this article.

7 (b) Upon a showing of a violation of this article in any civil
8 action, a court may also assess the penalties prescribed in this
9 chapter.



1 (c) ~~Whenever~~ *If* the commissioner has reasonable cause to
2 believe or determines after a public hearing that any insurer, agent,
3 broker, or other person or entity engaged in the transaction of
4 insurance, has violated this article, the commissioner shall make
5 and serve upon the insurer, broker, agent, or other person or entity
6 a notice of hearing. The notice shall state the commissioner's
7 intent to assess the administrative penalties, the time and place of
8 the hearing, and the conduct, condition, or ground upon which the
9 commissioner is holding the hearing, and assessing the penalties.
10 The hearing shall occur within 30 days after the notice is served.
11 Within 30 days after the hearing, the commissioner shall issue an
12 order specifying the amount of the penalties to be paid. The
13 penalties resulting from the hearing shall be paid to the Insurance
14 Fund.

15 (d) The powers vested in the commissioner by this section shall
16 be in addition to any and all powers and remedies vested in the
17 commissioner by law.

18 (e) Actions for injunctive relief, penalties specified in Section
19 789.3, damages, restitution, and all other remedies in law, may be
20 brought in superior court by the Attorney General, district
21 attorney, or city attorney on behalf of the people of California. The
22 court shall award reasonable attorney's fees and court costs to the
23 prevailing plaintiff who establishes a violation of this article.

